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August 24, 2007

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DEPT OF ENVIRONMENT AND CONSERVATION
OFFICE OF GENERAL COUNSEL

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APPEAL OF ENFORCEMENT ORDER
TDEC-OGC
20th Floor
L & C Tower
401 Church Street
Nashville, TN 37243-1548

**RE: In the Matter of: Sterling B. Marlin, Before the Tennessee Water Quality
Control Board, Case No. WPC 07-0155**

To Whom it May Concern:

Enclosed herewith please find the Answer, Notice of Appeal and Petition for Hearing in the above referenced matter.

Please do not hesitate to contact me if you have questions.

Very truly yours,

STITES & HARBISON, PLLC

William L. Penny

cc: Sterling B. Marlin
Robert Cox

15530N:071233:745492:1:NASHVILLE

BEFORE THE TENNESSEE WATER QUALITY CONTROL BOARD

IN RE:

STERLING B. MARLIN

Respondent

)
) **TENNESSEE DIVISION OF**
) **WATER**
) **POLLUTION CONTROL**
)
)
) **CASE NO. WPC07-0155**
)
)
)

ANSWER, NOTICE OF APPEAL AND PETITION FOR HEARING

Comes now Sterling B. Marlin, by and through counsel, and hereby submits this Answer, Notice of Appeal and Petition for Hearing and for good cause would state:

1. The allegations in Paragraph I do not call for a response.
2. The Respondent admits the allegations in Paragraph II to the extent that Respondent is an owner of the property. The term developer is ambiguous and undefined and Respondent, therefore, denies that characterization.
3. The allegations in Paragraph III are legal recitations which do not require a response, but denies any language not expressly contained in the cited authority itself.
4. The Respondent admits that he is a “person” within the meaning of TENN. CODE ANN. § 69-3-103(20), but denies the remainder of the Paragraph IV.
5. With regard to Paragraph V, the Respondent does not have sufficient information to admit or deny the allegations pertaining to the unnamed tributary to Bear Creek or its use classification, if any, and therefore denies those allegations.

6. With regard to Paragraph VI, the Respondent is aware that the Division conducted an inspection on June 19, 2007, but does not have sufficient information to admit or deny the what the Division observed during said visit and therefore denies such allegations.

7. With respect to the allegations in Paragraph VII, The Respondent admits that the Division issued a Notice of Violation.

8. The Respondent denies the allegations of Paragraph VIII.

9. All other allegations not expressly addressed herein are hereby denied.

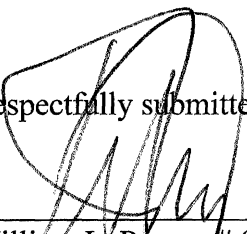
FIRST AFFIRMATIVE DEFENSE

The action by the Commissioner is:

- 1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; and, is
- (5) Unsupported by evidence which is both substantial and material in the light of the entire record.

NOW, HAVING FULLY RESPONDED, Respondent Sterling B. Marlin would show that the Order and Assessment is not warranted, and that upon a full and fair trial of this matter that the Board Dismiss the Director's Order and Assessment and provide such other further and general relief to which it may be entitled, including an award of attorneys fees and other expenses necessary for defending itself in this matter.

Respectfully submitted,



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Counsel for Respondent